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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/784,105

02/20/2004

Craig P. Luftig

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03/31/2011

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EXAMINER

RAPILLO, KRISTINE K

ART UNIT

PAPER NUMBER

3626

NOTIFICATION DATE

DELIVERY MODE

03/31/2011

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/784,105	<b>Applicant(s)</b> LUFTIG, CRAIG P.	
	<b>Examiner</b> KRISTINE K. RAPILLO	<b>Art Unit</b> 3626	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 4/13/2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4,6,7,10-15,17,18,21-26,28,29 and 32 is/are pending in the application.
- 4a) Of the above claim(s) 5, 8-9, 16, 19-20, 27, 30-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4,6,7,10-15,17,18,21-26,28,29 and 32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 June 2009 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/30/2004; 7/24/2006</u>                                      | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

***Notice to applicant***

1. This communication is in response to the Request for Continued Examination submitted April 13, 2010. Claims 11, 12, and 14 are amended. Claims 5, 8 – 9, 16, 19 – 20, 27, and 30 – 31 were previously cancelled. Claims 1 – 4, 6 – 7, 10 – 15, 17 – 18, 21 – 26, 28 – 29, and 32 are presented for examination.

***Claim Rejections - 35 USC § 101***

2. The rejection of claims 11 – 15, 17 – 18, and 21 under 35 U.S.C. 101 are hereby withdrawn based upon the amendment submitted April 13, 2010.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 – 4, 6 – 7, 10 – 15, 17 – 18, 21 – 26, 28 – 29, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lencki et al., herein after Lencki (U.S. Publication Number 2002/0049617) in view of Kaehler et al. (U. S. Publication Number 2005/0086075 A1), hereinafter Kaehler.

In regard to claim 1 (Previously Presented), Lencki teaches a computing system to integrate a defined contribution plan with a health plan comprising:

- a claim processing system (paragraph [0111]);
- a health plan management software module (paragraph [0281]) where Lencki discloses customer service software which can be modified to encompass a health care plan; and

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- a defined contribution management software module integrated with the health plan management software module (paragraphs [0093] and [0094]), both the health plan management and defined contribution software modules operable by the claim processing system to:
  - create a defined contribution application for the health plan to allow for the entry of information for the defined contribution plan (paragraphs [0271] and [0273]),
  - link defined contribution plan information to the health plan (paragraph [0184]); and
  - establish allocation rules and amounts for the defined contribution plan (paragraph [0084]);
  - Allocation rules and amounts for the defined contribution plan which comprises for the FSA, defining parameters including a claim submission method considered during FSA claim processing (paragraphs [0081], [0193], and [0206] where Lencki discloses an invention in which an employee contributes to an account where pre and post tax dollars can be contributed, which is equated to a flexible spending account.

Lencki fails to teach a system comprising: the defined contribution plan being either a Health Reimbursement Arrangement (HRA) account or a Flexible Spending Account (FSA) account; which comprises, for the HRA, determining whether HRA allocated amounts are to be carried over.

Kaehler teaches a system comprising: the defined contribution plan being either a Health Reimbursement Arrangement (HRA) account or a Flexible Spending Account (FSA) account (paragraphs [0033] and [0052]) which comprises, for the HRA, determining whether HRA allocated amounts are to be carried over (paragraphs [0033] and [0052]).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include a system comprising: the defined contribution plan being either a Health Reimbursement Arrangement (HRA) account or a Flexible Spending Account (FSA) account (paragraphs [0033] and [0052]) which comprises, for the HRA, determining whether HRA allocated amounts are to be carried over (paragraphs [0033] and [0052]) as taught by Kaehler, within the system of Lencki, with the motivation of allowing a participant (i.e. employee) of a health plan to choose how their health care funds, by way of an HRA and/or FSA, are distributed (Kaehler: paragraph [0044]).

In regard to claim 2 (Previously Presented), Lencki and Kaehler teach the computing system of claim 1. Lencki further teaches a system comprising a claim processing defined contribution software module integrated with a health plan claim processing software module, both the health plan claim processing and defined contribution claim processing software modules operable by the claim processing system to: perform claim processing (paragraph [0111]; and determine a claim payment for a member based on the defined contribution plan (paragraph [0011]).

In regard to claim 3 (Previously Presented), Lencki and Kaehler teach the computing system of claim 1. Lencki further teaches a system wherein the health plan claim processing and defined contribution claim processing software modules store a record of a claim payment for the defined contribution plan for access by a member, provider, employer, broker or employee of the health plan (paragraphs [0134] and [0135]).

In regard to claim 4 (Previously Presented), Lencki and Kaehler teach the computing system of claim 3. Lencki further teaches a system comprising a network interface to couple the claim processing system to a network, wherein a member of the health plan utilizing a computing device accesses a record of a claim payment for the defined contribution plan through the network (paragraph [0196]).

In regard to claim 6 (Previously Presented), Lencki and Kaehler teach the computing system of claim 1. Lencki further teaches a system wherein establishing allocation rules and amounts for the HRA comprises defining parameters including at least one of copays, deductibles, coinsurance, and patient liability portions that are considered for payment by the HRA during claim processing (paragraphs [0181], [0193], and [0206]). Lencki fails to teach an HRA.

Kaehler teaches an HRA (paragraphs [0033] and [0052]).

The motivation to combine the teachings of Lencki and Kaehler is discussed in the rejection of claim 1, and incorporated herein.

In regard to claim 7 (Previously Presented), Lencki and Kaehler teach the computing system of claim 1. Lencki further teaches a system wherein establishing allocation rules and amounts for the HRA comprises defining a member's allocation amount and tier (paragraph [0206]). Lencki fails to teach an HRA.

Kaehler teaches an HRA (paragraphs [0033] and [0052]).

The motivation to combine the teachings of Lencki and Kaehler is discussed in the rejection of claim 1, and incorporated herein.

In regard to claim 10 (Previously Presented), Lencki and Kaehler teach the computing system of claim 1. Lencki further teaches a system wherein establishing allocation rules and amounts for the FSA comprises defining parameters including an FSA allocation amount and that is considered during FSA claim processing (paragraphs [0081], [0193], and [0206]).

Method claims 11 – 15 and 21 repeat the subject matter of system claims 1 – 4 and 10 as a series of steps rather than a set of apparatus elements. As the underlying elements of claims 1 - 4 and 10 have been shown to be fully disclosed by the teaching of Lencki in the above rejection of claims 1— 4 and 10, it is readily apparent that the system disclosed by Lencki performs these steps. As such, these limitations (claims 11 – 15 and 21) are rejected for the same reasons given above for system claims 1— 4 and 10, and incorporated herein.

Method claims 17 – 18 repeat the subject matter of system claims 6 - 7 as a series of steps rather than a set of apparatus elements. As the underlying elements of claims 6 - 7 have been shown to be fully disclosed by the teachings of Lencki and Kaehler in the above rejection of claims 6 - 7, it is readily apparent that the system disclosed by Lencki and Kaehler performs these steps. As such, these

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limitations (claims 17 – 18) are rejected for the same reasons given above for system claims 6 - 7, and incorporated herein.

Machine-readable medium claims 22 - 26 and 32 repeat the subject matter of system claims 1 – 4 and 10 as the execution of a series of steps rather than a set of apparatus elements. As the underlying elements of claims 1 - 4 and 10 have been shown to be fully disclosed by the teaching of Lencki in the above rejection of claims 1— 4 and 10, it is readily apparent that the system disclosed by Lencki performs these steps. As such, these limitations (claims 22 - 26 and 32) are rejected for the same reasons given above for system claims 1— 4 and 10, and incorporated herein.

Machine-readable medium claims 28 - 29 repeat the subject matter of system claims 6 - 7 as the execution of a series of steps rather than a set of apparatus elements. As the underlying elements of claims 6 - 7 have been shown to be fully disclosed by the teachings of Lencki and Kaehler in the above rejection of claims 6 - 7, it is readily apparent that the system disclosed by Lencki and Kaehler performs these steps. As such, these limitations (claims 28 - 29) are rejected for the same reasons given above for system claims 6 - 7, and incorporated herein.

### ***Response to Arguments***

5. Applicant's arguments filed April 13, 2010 have been fully considered but they are not persuasive. Applicant's arguments will be addressed herein below in the order in which they appear in the response filed April 13, 2010.

### **Rejections Under 35 U.S.C. § 103**

6. In response to applicant's argument that the Office's rejection suggests that a module that isn't even referenced until paragraph [0281] in Lencki is integrated with a second module described nearly 100 paragraphs earlier in order to perform actions that are described before the first module is ever described. The Examiner respectfully submits that paragraph [0281] of Lencki discloses that a customer service

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module may be modified to fit a health care module. The paragraphs referenced earlier in the office action (i.e. paragraphs [0033] and [0094]) describe the customer service module; paragraph [0281] discloses these same features (of a customer service module) can be applied to a health care module. Thus, Applicant's remarks are not persuasive.

7. The Applicant argues that Kaehler does not teach a system "for the HRA, determining whether HRA allocated amounts are to be carried over". The Examiner respectfully submits that Kaehler discloses HRA accounts may accumulate and the funds retained in the HRA; these amounts may be retained from year to year as defined by the sponsor (paragraph [0033]). Thus, the Applicant's arguments are not persuasive and the rejection is maintained. In addition, the Applicant argues that Kaehler does not teach "define parameters including a claim submission method during FSA claim processing". The Examiner respectfully submits that the Lencki reference was cited for this feature and described in paragraphs [0081], [0193], and [0206] where Lencki discloses an invention in which an employee contributes to an account where pre and post tax dollars can be contributed, which is equated to a flexible spending account.

### ***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to KRISTINE K. RAPILLO whose telephone number is (571)270-3325. The examiner can normally be reached on Monday to Thursday 6:30 am to 3:30 pm Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Morgan can be reached on 571-272-6773. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/K. K. R./  
Examiner, Art Unit 3626

/C. Luke Gilligan/  
Primary Examiner, Art Unit 3626